

**IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DATE: 9/27/2022

DISTRICT JUDGE: J. Campbell Barker

COURT REPORTER: Susan Zielie **COURTROOM DEPUTY:** Nicole Cadenhead

Case No. 6:21-cv-226	Start Time: 9:00 am
Equal Employment Opportunity Commission v. SDI of Mineola, Texas, L.L.C. d/b/a Sonic-Drive In and SDI of Whitehouse, Texas, L.L.C. d/b/a Sonic Drive-In	End Time: 3:20 pm

ATTORNEYS FOR: Equal Employment Opportunity Commission	ATTORNEYS FOR: SDI of Mineola, Texas, L.L.C. and SDI of Whitehouse, Texas, L.L.C.
Alexa Lang Brooke Lopez Suzanne Anderson	Eric Kolder Chelsea Milam

On this day, came the parties by their attorneys and the following proceedings were held in Tyler, TX:

TIME:	MINUTES: Trial – Day 5
9:00 am	The court resumed session. The court asked the parties if they are ready. The defendants informed the court there are two witnesses that they plan to call. One of the witnesses needs a little more time to arrive. The court asked the parties if they have called or plan to call any experts. They agreed they do not have any experts. The court will remove the instruction regarding expert witnesses in the final jury instructions. The court will leave in the instruction regarding charts and graphs.
9:04 am	The jury was seated.
9:05 am	Defendants called Tyrell McPherson. Mr. McPherson was sworn in.
9:05 am	Defendants began direct examination.
9:27 am	Defendants concluded direct examination.

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TIME:	MINUTES: Trial – Day 5
9:28 am	Plaintiff began cross examination.
9:48 am	The jury was excused for a short break.
9:49 am	The court asked the parties if they have any motions or positions on excusing Juror No. 2 for cause. The defendants do not have any objections. Plaintiff agree with the court's assessment but is not sure if he is taking a power nap and agreed that they have seen what the court has seen. Defendants agreed that they have had questions regarding whether Juror 2 is falling asleep. The court announced we will reserve ruling on excusing Juror No 2. The court will continue to watch for signs of sleeping and possibly excuse the juror later.
9:53 am	The jury was seated.
9:54 am	Plaintiff continued cross examination.
10:33 am	Plaintiff concluded cross examination.
10:33 am	Defendants began redirect examination.
10:38 am	Defendants concluded redirect examination.
10:38 am	Plaintiff began re-cross examination.
10:41 am	Plaintiff concluded re-cross examination.
10:41 am	Mr. McPherson was excused.
10:41 am	The jury was excused for a break
10:56 am	The court resumed session.
10:56 am	The jury was seated.

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TIME:	MINUTES: Trial – Day 5
10:56 am	Defendants called Shawn McQuilliams.
10:57 am	Mr. McQuilliams was sworn in.
10:57 am	Defendants began direct examination.
11:17 am	Defendants concluded direct examination.
11:18 am	Plaintiff began cross examination.
11:41 am	Plaintiff concluded cross examination.
11:41 am	Defendants began redirect examination.
11:42 am	Defendants concluded redirect examination.
11:42 am	Plaintiff began re-cross examination.
11:42 am	Plaintiff concluded re-cross examination.
11:43 am	Mr. McQuilliams was excused.
11:43 am	The jury was excused for lunch.
11:44 am	The court recessed for lunch.
12:59 pm	The court resumed session.
12:59 pm	The jury was seated.

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TIME:	MINUTES: Trial – Day 5
1:00 pm	Defendants called Leston Juarez.
1:01 pm	Mr. Juarez was sworn in.
1:01 pm	Defendants began direct examination.
1:36 pm	Defendants concluded direct examination.
1:36 pm	Plaintiff began cross examination.
2:00 pm	Plaintiff concluded cross examination.
2:00 pm	Defendants began redirect examination.
2:02 pm	Defendants concluded redirect examination.
2:02 pm	Plaintiff began re-cross examination.
2:04 pm	Plaintiff concluded re-cross examination.
2:04 pm	Mr. Juarez was excused.
2:04 pm	The jury was excused for an afternoon break.
2:05 pm	The court addressed the parties and announced that closing arguments will take place tomorrow morning even if all evidence is entered today.
2:05 pm	The court recessed.
2:20 pm	The court resumed session.

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TIME:	MINUTES: Trial – Day 5
2:20 pm	The jury was seated.
2:20 pm	Defendants called Eric McQuilliams. Mr. McQuilliams was sworn in.
2:21 pm	Defendants began direct examination.
2:40 pm	Defendants concluded direct examination.
2:40 pm	Plaintiff began cross examination.
3:13 pm	Plaintiff concluded cross examination.
3:13 pm	Defendants began redirect examination.
3:13 pm	Defendants concluded redirect examination.
3:14 pm	Mr. McQuilliams was excused.
3:14 pm	The defendants rested.
3:14 pm	The court asked the plaintiff if they have any rebuttal evidence. Plaintiff asked to approach for a bench conference.
3:16 pm	The plaintiff did not have any rebuttal evidence to present.
3:16 pm	The court instructed the parties and informed them closing arguments will take place in the morning and will provide the final jury instructions. The court asked the jurors to arrive by 8:30 am.
3:17 pm	The jury was excused.
3:18 pm	The court addressed housekeeping matters and asked the parties to confer regarding the appropriate exhibits which will be sent to the jury room tomorrow and the final lists. The court asked if the parties will be prepared to present closing. Plaintiff asked if they could split their closing argument. The court presented the ruling on reserving time for a rebuttal.

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TIME:	MINUTES: Trial – Day 5
3:20 pm	Recessed.